

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

EQUAL EMPLOYMENT)
OPPORTUNITY COMMISSION,)
)
Plaintiff,)
)
v.)
)
NORTH GEORGIA FOODS, INC.,)
d/b/a BURGER KING)
)
Defendant.)
_____)

Case No.: 1:22-cv-00049

MOTION TO INTERVENE

COMES NOW TIFFANY SMITH, by and through undersigned counsel, and pursuant to Rule 24(a), Fed. R. Civ. P., respectfully requests leave to intervene in this action to assert the claims set forth in the proposed Intervenor's Complaint attached hereto, and in support states the following:

1. On March 7, 2022, Plaintiff, Equal Employment Opportunity Commission, filed a Complaint against North Georgia Foods, Inc., d/b/a Burger King for violations of Title VII of the Civil Rights Act of 1964 ("Title VII") due to sex/pregnancy based discrimination and retaliation against Ms. Smith.

2. Ms. Smith filed her charge of discrimination with the Equal Employment Opportunity Commission and has exhausted all administrative preconditions and received a cause finding.

3. Ms. Smith has an unconditional right to intervene in this lawsuit because she is the aggrieved person who filed a charge of discrimination alleging that Defendant North Georgia Foods, Inc., d/b/a Burger King violated her rights by discriminating against her based on her

sex/pregnancy and retaliated against Ms. Smith for exercising her rights under Title VII.

4. Because Ms. Smith is a person “aggrieved,” under Title VII, she has an unconditional right to intervene in this proceeding.

5. As required by Fed. R. Civ. P. 24(c), Ms. Smith attaches her proposed Complaint in Intervention hereto and has provided notice and service of this pleading to all parties as required by Fed. R. Civ. P. 5.

6. This Motion is supported by good and substantial authority contained in the attached.

7. The instant motion is timely, as it is being filed at the earliest stage possible in the proceedings.

MEMORANDUM OF LAW

Rule 24(a) of the Federal Rules of Civil Procedure allows a party to intervene as a matter of right “when a statute of the United States confers an unconditional right to intervene”

Fed.R.Civ.P. 24(a). Title VII of the Civil Rights Act of 1964 adopts 42 U.S.C. § 2005e 5(f)(1), which provides that the “person or persons aggrieved shall have the right to intervene in a Civil Action brought by the Commission ...” 42 U.S.C. § 12117(a). Thus, Ms. Smith has an unconditional right to intervene in this lawsuit because she is an aggrieved person for which the EEOC is seeking relief. *Id.* Ms. Smith’s motion is timely and she has otherwise met the requirements for intervention set forth in Rule 24 of the Federal Rules of Civil Procedure and 42 U.S.C. § 12117 and 42 U.S.C. § 2000e-5(f)(1).

The undersigned conferred with counsel for the Plaintiff, EEOC, and there are no objections to the filing of this motion.

WHEREFORE, TIFFANY SMITH requests that this Court grant her Motion to Intervene as Plaintiff and to enter an Order allowing the Plaintiff to file the attached Intervenor Complaint.

(Exhibit A).

Dated: March 28, 2022

Respectfully Submitted,

/s/ Gary Martoccio

Gary Martoccio

North Carolina Bar # 54125

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CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send notice of electronic filing to the following parties:

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